IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

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Ramesh Kumar Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 1688/2007

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Date of Order: : 25/10/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Hemant Dutt, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

Notice for final disposal is accepted by the learned Public Prosecutor. With the consent of the learned counsel for the parties, the mater is being finally heard and decided at the admission stage.

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 07.9.2007 passed by Judicial Magistrate, Tibbi, district

Hanumangarh (for short 'the trial court' hereinafter) whereby the trial court dismissed the application filed by the petitioner under Section 451 of the Code seeking interim custody of Tractor No. HR-10-8569 with trolley on Supurdignama.

I have heard learned counsel for the parties. Carefully gone through the order impugned.

It is contended by the learned counsel for the petitioner that some woods were being carried in the tractor and at this stage, it cannot be concluded that the woods which the said tractor was carrying, is a “forest produce” or not. It is further contended that if the vehicle is allowed to remain lying at the Police Station for indefinite period, it would expose to the heat, air and rains, resultantly diminishing its value; and the petitioner is prepared to furnish the solvent security.

Having regard to the facts and circumstances, in my view, no useful purpose would be served in allowing the vehicle to remain at the Police Station for unlimited period exposing to heat and open sky as there is every possibility of diminishing its value.

The criminal miscellaneous petition is, therefore, allowed. The impugned order is set aside and the trial Court is directed to release the Tractor No. HR-10-8569 with trolley in favour of the petitioner, who is the registered owner of the said tractor trolley, on furnishing the personal bond of Rs.2,00,000/-

with a surety of the like amount with the condition that the petitioner will not transfer or alienate the same and shall produce when ordered by the trial Court.

(H.R. PANWAR), J.

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